UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,333	11/26/2003	Damien Galand	Q78594	8615

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EXAMINER
KANG, SUK JIN

ART UNIT	PAPER NUMBER
2419	

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10/31/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *23 June 2008*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 November 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Drawings

1.   The drawings are objected to because of minor informalities. Figures 1-4 lack

descriptive text and labeling. Also, in Figure 1, access network, N_A, should be properly

labeled as such. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are

required in reply to the Office action to avoid abandonment of the application. Any

amended replacement drawing sheet should include all of the figures appearing on the

immediate prior version of the sheet, even if only one figure is being amended. The

figure or figure number of an amended drawing should not be labeled as "amended." If

a drawing figure is to be canceled, the appropriate figure must be removed from the

replacement sheet, and where necessary, the remaining figures must be renumbered

and appropriate changes made to the brief description of the several views of the

drawings for consistency. Additional replacement sheets may be necessary to show the

renumbering of the remaining figures. Each drawing sheet submitted after the filing date

of an application must be labeled in the top margin as either "Replacement Sheet" or

"New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in

the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2.   Claim 1 is objected to because of the following informalities:

        a) On line 14 of claim 1, replace "a" with --an-- before "impact";

b) On line 15 of claim 1, insert --of-- between "quality at";

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the

obligation under 37 CFR 1.56 to point out the inventor and invention dates of each

claim that was not commonly owned at the time a later invention was made in order

for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35

U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
        obviousness or nonobviousness.

4.   **Claims 1-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over

applicant's own **Admitted Prior Art** (hereinafter AAPA) in view of **Gai et al.** (hereinafter

Gai) (U.S. Patent # 6,434,624 B1), and further in view of **Raz et al.** (hereinafter Raz)

(U.S. Patent # 6,529,515 B1).

Consider **claims 1, 10, and 11**, AAPA discloses a method and a device for

accessing a telecommunication network (R_B, access device, figure 1) comprising means

for transmitting data flows (applicant's specification, page 2, lines 3-7) between at least

one first telecommunication client (B, client, figure 1) connected to the said

telecommunication network (N, telecommunication network, figure 1) by means of an

access network (N_B, access network, figure 1) possessing throughput performances

lower than the said telecommunication network (applicant's specification, page 2, lines

25-27) and at least one second telecommunication client (S, server, figure 1) accessible

through the said telecommunication network (N, telecommunication network, figure 1),

the said information flows being organised in sessions (applicant's specification, page 2,

lines 3-7), each data flow of one and the same session providing communication

between the same telecommunication clients (applicant's specification, page 2, lines 3-

17).

However, AAPA may not expressly disclose degradation means for degrading at

least one quality parameter of at least one of said data flows in order to compensate for

the difference in throughputs between the said telecommunication network and the said

access network, wherein said degradation means make use of a module associated

with each session, for carrying out the said degradation, said module being determined

by said first client; and said module relates to at least an impact of a degradation of at

least one quality parameter on the quality of at least one of said data flows.

Nonetheless, in the same field of endeavor, Gai discloses degradation means

(intermediate node, 210, Local Policy enforcer, figure 3) for degrading at least one

quality parameter of at least one of said data flows (column 6 line 67, column 7 lines 1-4

and 8-13) in order to compensate for the difference in throughputs between the said

telecommunication network and the said access network (column 7 lines 39-52).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to incorporate degrading quality parameters of data

flows as taught by Gai with the device as disclosed by AAPA for the purpose of

effectively degrading data flow sessions.

However, AAPA, as modified by Gai, further may not expressly disclose making

use of a module associated with each session, for carrying out the said degradation, the

said module being determined by the said first client.

Nonetheless, in the same field of endeavor, Raz discloses making use of a

module (active packets, column 4 lines 15-18) associated with each session (column 4

lines 65-67, column 5 lines 1-5), for carrying out the said degradation (column 9 lines 7-

12 and 31-33), the said module (active packets containing programs) being determined

by the said first client (column 4 lines 51-67, column 5 lines 1-9, column 10 lines 31-33).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to incorporate a module associated with each session

as taught by Raz with the device as disclosed by AAPA, as modified by Gai, for the purpose of effectively degrading data flow sessions.

Consider **claim 2**, Raz further discloses an access device in which the said module principally consists of executable code allowing the degradation of the said at least one quality parameter (column 4 lines 57-60, column 5 lines 1-23).

Consider **claim 3**, Raz further discloses an access device in which the said module is transmitted in the payload of an active packet transmitted by the said first client (column 4 lines 14-18 and 57-60, column 5 lines 1-23).

Consider **claim 4**, Gai further discloses an access device in which the said module is downloaded from a code server (222, host/server, figure 2, column 6 lines 11-27).

Consider **claim 5**, AAPA, as modified by Gai and Raz, discloses the claimed invention, but may not expressly disclose the said module principally consists of a set of tables giving the correspondence, for each data flow of the said session, the quality parameters and the impacts of a degradation of these quality parameters on the quality of the said data flow.

Although, AAPA, as modified by Gai and Raz, may not explicitly disclose the module principally consists of a set of tables giving the correspondence, for each data flow of the said session, the quality parameters and the impacts of a degradation of these quality parameters on the quality of the said data flow, nonetheless, it would have been obvious to a person of ordinary skill in the art for a module (active packets containing active programs containing code used to perform specific tasks (i.e.

parameter degrading functions) during a session on the network (column 4 lines 65-67, column 5 lines 1-5, column 9 lines 7-12 and 31-33, column 10 lines 31-33) as taught by Raz) to consist of a set of table in order to execute the function of claimed invention for the purpose of effectively organizing quality parameters and other quality information of data flows to be utilized in modules/active packets.

Consider **claim 6**, AAPA, as modified by Gai and Raz, discloses the claimed invention, but may not expressly disclose the said module principally consists of a set of mathematical expressions linking, for each data flow of the said session, the quality parameters and the impacts of a degradation of these quality parameters on the quality of the said data flow.

Although, AAPA, as modified by Gai and Raz, may not explicitly disclose the module principally consists of a set of mathematical expressions linking, for each data flow of the said session, the quality parameters and the impacts of a degradation of these quality parameters on the quality of the said data flow, nonetheless, it would have been obvious to a person of ordinary skill in the art for a module (active packets containing active programs containing code used to perform specific tasks (i.e. parameter degrading functions) during a session on the network (column 4 lines 65-67, column 5 lines 1-5, column 9 lines 7-12 and 31-33, column 10 lines 31-33) as taught by Raz) to consist of a set of mathematical expressions (code, algorithms, programs) in order to execute the function of claimed invention for the purpose of effectively organizing quality parameters and other quality information of data flows to be utilized in modules/active packets.

Consider **claim 7**, Raz further discloses an access device in which the said first

client determines the said module in cooperation with the end user, in particular by

means of configuration parameters (column 9 lines 13-24).

Consider **claim 8**, Gai further discloses an access device in which the said

module consists of a set of policy rules supplied by a policy server (216, policy server,

figure 2, column 6 lines 4-10).

Consider **claim 9**, Raz further discloses an access device in which the

communications with the policy server conform to the CORBA protocol (column 2 lines

1-5, column 5 lines 39-46).

Response to Arguments

5.   Applicant's arguments, see page 7, filed June 27, 2008, with respect to claim(s)

1-11 have been fully considered but are moot in view of the new ground(s) of rejection.

The indicated allowability of claims 5 and 6 are withdrawn. Therefore, upon further

consideration, a new ground(s) of rejection is made in view of AAPA, as modified by Gai

and Raz.

Conclusion

6.   Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed**

to:

> Commissioner for Patents
> P.O. Box 1450
> Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

7.   Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Suk Jin Kang whose telephone number is (571) 270-

1771. The examiner can normally be reached on Monday - Friday 8:00-5:00 EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Chirag Shah can be reached on (571) 272-3144. The fax phone number for

the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist/customer service whose telephone

number is (571) 272-2600.

/Suk Jin Kang/
Examiner, Art Unit 2619

October 24, 2008

/Chirag G Shah/

Supervisory Patent Examiner, Art Unit 2419